

United States District Court  
Western District of North Carolina

File number: 99-558

FILED  
ASHEVILLE, NC

JUN 22 2015

Billy R. Maney, Pro Se  
Defendant

U.S. DISTRICT COURT  
WESTERN DISTRICT OF NC

Motion For  
Notice of Removal

VS.

Tribal Child Support Enforcement

Julia A. Maney (n/k/a Julia A. Owen)  
Plaintiff

1:15CV121

now come Defendant, Billy R. Maney, Pro Se, and request that this Honorable Court take Jurisdiction of Case File 99-558 from the Cherokee Court System of the Eastern Band of the Cherokee Tribe, to review the final order of the Cherokee Supreme Court denying Defendant's Appeal of the final order of the Cherokee Superior Court in Case Number: CV99-558. Defendant shows the Court the following:

1. Defendant filed a notice of Appeal of the Cherokee Supreme Court in October, 2014 (see notice of Appeal with attached documents attached hereto) and since that time defendant has been trying to find the Court with the proper Jurisdiction to accept the "notice of Appeal." (see documents attached to notice of Appeal).

2. Defendant Request that this Court take Jurisdiction of the Case and Rule on his notice of Appeal as it appears that this Case may be a Case of First Impression and a Constitutional Question is being raised.

wherefore defendant request the following relief.

- A. That this Court allow a Belated Appeal in this Case.
- B. Appoint Counsel for Defendant
- C. Grant any necessary relief the Court deem appropriate.

Respectfully Submitted

Billy R. Maney

Piedmont Correctional Inst.

1245 Cant Road

Salisbury, N.C. 28147

In the United States District Court  
Western District of North Carolina  
File Number: 99-558

Billy R. Maney, Pro Se,  
Defendant

VS.

From: Tribal Court Division  
Eastern Band of Cherokee Indians  
Cherokee, North Carolina

Tribal Child Support Enforcement;

Julia A. Maney (n/k/a Julia A. Queen),  
Plaintiff

Notice of Appeal

Defendant, BILLY R. MANEY, Pro Se, hereby give notice of Appeal to this Honorable Court the final Rulings / order of the Honorable William Bottom, Chief Justice for the Cherokee Supreme Court, Eastern Band of Cherokee Indians, Dualla Branch, Cherokee, North Carolina, dated September 23, 2014 wherein Chief Justice Bottom, Pursuant to Rule 21(b)(1) of the Cherokee Rules of Appellate Procedures, dismissed Defendant's Appeal in Case number 99-558 and remanded the Case back to the Cherokee Tribal for compliance with the judgment rendered therein. (See Exhibit A, attached hereto). That Defendant shows this Court the following:

1. that according to the Cherokee Judicial Code, Chapter 7, the Cherokee Supreme Court and the Cherokee Tribal Court are Courts within the Judicial Branch. (See Exhibit B, Section 7.1, attached

here to).

2. That the orders and final rulings of the Cherokee Supreme Court are final and shall not be subjected to appeal to any other body of the Eastern Band of Cherokee Indians. (See Exhibit B, section 7-5(e)).
3. That any case or controversy arising within the territories of the Eastern Band of Cherokee Indians shall be filed and exhausted in the Judicial Branch before it is filed in any other jurisdiction... (See Exhibit B, section 1-2 (b)).
4. That Cherokee, North Carolina, where Defendant's controversy began is in the District of this Court and therefore this Court has jurisdiction of this case and controversy, the Defendant believes, on information and knowledge.
5. That Defendant's Appeal was Dismissed by the Cherokee Supreme Court in an order dated September 23, 2014 and on information and belief Defendant had 30 days in which to file a notice of Appeal, however, due to Defendant being an inmate within the North Carolina Department of Public Safety, he did not receive a copy of the September 23, 2014 order until mail call on September 29, 2014. (See Exhibit C - Serial mail letter dated Sept. 29, 2014 and stamped by NC Dept. of Correction).
6. That from September 29, 2014 until October 29, 2014 is 30 days and pursuant to Federal Pro Se law Defendant submit this notice of Appeal to prison officials in the unit mail room for mailing to this Court and that this notice of Appeal is considered filed in this Court within

the proper time limits.

Wherefore, defendant requests the following:

- A. that this Court allow defendant to pursue his Appeal in this Court.
- B. that this Court inform defendant of any proper procedures for filing an Appeal of this nature in this Court and/or direct defendant to any proper Court for filing this Appeal.
- C. that this Court provide this pro se defendant an extension of time to perfect his notice of Appeal.
- D. that this Court grant whatever necessary relief it deems appropriate.

this 29<sup>th</sup> day of October, 2014

Bill R. Mamez

P.C.I. 3500

1245 Canal Road

Salisbury, N.C.

28147

## Certificate of Service

this is to certify that the undersigned has this date served this notice of Appeal in the above captioned action upon Plaintiff's Attorney and the Clerk of the Cherokee Supreme Court by depositing a copy hereof in the United States mail properly addressed to,

The Law Office of Collins & Henderson  
Attorneys At Law  
217 Lolla Street  
Franklin, N.C. 28734  
Phone 828 524-1017

Clerk of Court  
The Cherokee Supreme Court  
P.O. Box 1629  
Cherokee, N.C. 28719  
Phone 828 497-1064

This the 29<sup>th</sup> day of October, 2014

Bill R. Momen  
Defendant



Mar 15, 2015

Dear Clerk of Court, Asheville Division,

Attached to this letter please find a motion entitled "Notice of Removal", and a Inmate Trust Fund Account Inquiry Form and a United State District Court Application to Proceed in District Court without Prejudice Fees or Costs, along with the Court Files in Case number 99-558 from Eastern Band of the Cherokee Court System for filing in your Court.

Please be advised that this case has been held up by the Cherokee Court System refusal to inform me on which Federal Court had proper Jurisdiction to accept an Appeal from the Cherokee Court system. This may be a case of first impression in terms of an Appeal coming from the Cherokee Court system. After making various inquiries about how to Appeal from the Cherokee Court system, the Clerk of Court, District Court, Western District suggested I file motion entitled "Notice of Removal" with a Application to Proceed without Prejudice Costs, etc.

Please inform me if this is the proper Court Jurisdiction for this Appeal. If not, please advise me.